

AMENDED IN ASSEMBLY AUGUST 17, 2015

AMENDED IN ASSEMBLY JULY 7, 2015

AMENDED IN ASSEMBLY JUNE 24, 2015

AMENDED IN SENATE JUNE 1, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 405

Introduced by Senator Hertzberg

(Principal coauthor: Senator Leno)

(Coauthors: Senators Beall and Wieckowski)

(Coauthors: Assembly Members Atkins, *Chang*, Chiu, Cooley, Dodd, *Cristina Garcia*, Gonzalez, ~~and Jones-Sawyer~~ *Jones-Sawyer*, and *Lackey*)

February 25, 2015

An act to amend Section 1214.1 of the Penal Code, and to ~~add Section 42008.9 to~~ *amend Section 42008.8* of the Vehicle Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

SB 405, as amended, Hertzberg. Failure to appear in court: fines.

Existing law authorizes the court, in addition to any other penalty in an infraction, misdemeanor, or felony case, to impose a civil assessment of up to \$300 against any defendant who fails, after notice and without good cause, to appear in court for any proceeding authorized by law, or who fails to pay all or any portion of a fine ordered by the court or to pay an installment of bail, as specified. Existing law provides that the assessment shall not become effective until at least 10 calendar days after the court mails a warning notice to the defendant, and requires the

court, if the defendant appears within the time specified in the notice and shows good cause for the failure to appear or for the failure to pay a fine or installment of bail, to vacate the assessment.

This bill would instead provide that the assessment would not become effective until at least 20 calendar days after the court mails a warning notice to the defendant. The bill would provide that payment of bail, fines, penalties, fees, or a civil assessment is not required in order for the court to vacate the assessment at the time the person makes an appearance, as specified. The bill would also provide that payment of a civil assessment is not required to schedule a court hearing on a pending underlying charge.

~~Existing law authorized the court and county to establish a one-time amnesty program for fines or bail for specified infractions and misdemeanor violations due on or before January 1, 2009, if certain conditions were met, including that payments under the program were made between January 1, 2012, and June 30, 2012, inclusive. Existing law allowed a person owing a fine or bail that was eligible for amnesty under the program to pay to the court 50% of the total fine or bail, as defined, which the court was required to accept in full satisfaction of the delinquent fine or bail.~~

~~This bill would require the court to allow a person with a driver's license that is suspended for a specified reason, including violation of a written promise to appear in court, when the suspension was issued between January 1, 2013, and December 31, 2015, inclusive, and the person has an established payment plan for the fees or penalties connected to the suspension, and the person is not in default on any payments under that plan, to appear in court and ask for the suspension to be lifted and for the person's driving privilege to be restored. The bill would require the court to direct the department to lift the suspension and restore the person's driving privilege. The bill would require, upon completion of the payment plan, that the court file a certificate with the department indicating that the person has fully paid the amount owing. The bill would provide that these requirements do not affect the total amount of delinquent fines or penalties, and authorizes collection proceedings if the person defaults on the payment plan.~~

Existing law requires a county to establish an amnesty program for fines and bail initially due on or before January 1, 2013, for Vehicle Code infractions to be conducted in accordance with guidelines adopted by the Judicial Council. Existing law requires the program to accept payments from October 1, 2015, to March 31, 2017, inclusive. Eligibility

criteria for the program include, among other things, that the person is not currently making payments to a comprehensive collection program for fines or bail already due, as specified.

This bill would revise that criterion to make a person eligible for the program if he or she has not made any payments after an unspecified date to a comprehensive collection program for fines or bail already due.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1214.1 of the Penal Code is amended to
2 read:

3 1214.1. (a) In addition to any other penalty in infraction,
4 misdemeanor, or felony cases, the court may impose a civil
5 assessment of up to three hundred dollars (\$300) against a
6 defendant who fails, after notice and without good cause, to appear
7 in court for a proceeding authorized by law or who fails to pay all
8 or any portion of a fine ordered by the court or to pay an installment
9 of bail as agreed to under Section 40510.5 of the Vehicle Code.
10 This assessment shall be deposited in the Trial Court Trust Fund,
11 as provided in Section 68085.1 of the Government Code.

12 (b) (1) The assessment imposed pursuant to subdivision (a)
13 shall not become effective until at least 20 calendar days after the
14 court mails a warning notice to the defendant by first-class mail
15 to the address shown on the notice to appear or to the defendant's
16 last known address. If the defendant appears within the time
17 specified in the notice and shows good cause for the failure to
18 appear or for the failure to pay a fine or installment of bail, the
19 court shall vacate the assessment.

20 (2) Payment of bail, fines, penalties, fees, or a civil assessment
21 shall not be required in order for the court to vacate the assessment
22 at the time of appearance pursuant to paragraph (1). Payment of a
23 civil assessment shall not be required to schedule a court hearing
24 on a pending underlying charge.

25 (c) If a civil assessment is imposed pursuant to subdivision (a),
26 no bench warrant or warrant of arrest shall be issued with respect
27 to the failure to appear at the proceeding for which the assessment
28 is imposed or the failure to pay the fine or installment of bail. An

1 outstanding, unserved bench warrant or warrant of arrest for a
2 failure to appear or for a failure to pay a fine or installment of bail
3 shall be recalled prior to the subsequent imposition of a civil
4 assessment.

5 (d) The assessment imposed pursuant to subdivision (a) shall
6 be subject to the due process requirements governing defense and
7 collection of civil money judgments generally.

8 (e) Each court and county shall maintain the collection program
9 that was in effect on July 1, 2005, unless otherwise agreed to by
10 the court and county. If a court and a county do not agree on a plan
11 for the collection of civil assessments imposed pursuant to this
12 section, or any other collections under Section 1463.010, after the
13 implementation of Sections 68085.6 and 68085.7 of the
14 Government Code, the court or the county may request arbitration
15 by a third party mutually agreed upon by the Administrative
16 Director of the Courts and the California State Association of
17 Counties.

18 ~~SEC. 2. Section 42008.9 is added to the Vehicle Code, to read:~~

19 ~~42008.9. (a) The court shall allow a person with a driver's~~
20 ~~license suspension pursuant to Section 13365 that was issued from~~
21 ~~January 1, 2013, through December 31, 2015, inclusive, and the~~
22 ~~person has an established payment plan for the fees or penalties~~
23 ~~connected to the suspension, and the person is not in default on~~
24 ~~any payments under that plan, to appear in court and ask for the~~
25 ~~suspension to be lifted and for the person's driving privilege to be~~
26 ~~restored. The court shall direct the department to lift the suspension~~
27 ~~and restore the person's driving privilege.~~

28 ~~(b) Upon completion of the payment plan described in~~
29 ~~subdivision (a), the court shall issue and file with the department~~
30 ~~the appropriate certificate pursuant to subdivision (b) of Section~~
31 ~~40509.~~

32 ~~(c) This section does not affect the total amount of delinquent~~
33 ~~finer or bail owed by the person. If a person subject to this section~~
34 ~~defaults on the payment plan described in subdivision (a), the court~~
35 ~~shall pursue collection of the delinquent fines or bail pursuant to~~
36 ~~Section 1463.007 of the Penal Code. However, those collection~~
37 ~~efforts shall not include a suspension of the person's driver's~~
38 ~~license.~~

39 *SEC. 2. Section 42008.8 of the Vehicle Code is amended to*
40 *read:*

1 42008.8. (a) The Legislature finds and declares that a one-time
2 infraction amnesty program would do all of the following:

3 (1) Provide relief to individuals who have found themselves in
4 violation of a court-ordered obligation because they have unpaid
5 traffic bail or fines.

6 (2) Provide relief to individuals who have found themselves in
7 violation of a court-ordered obligation or who have had their
8 driving privileges suspended pursuant to Section 13365.

9 (3) Provide increased revenue at a time when revenue is scarce
10 by encouraging payment of old fines that have remained unpaid.

11 (4) Allow courts and counties to resolve older delinquent cases
12 and focus limited resources on collections for more recent cases.

13 (b) A one-time amnesty program for fines and bail meeting the
14 eligibility requirements set forth in subdivision ~~(e)~~ (g) shall be
15 established in each county. Unless agreed otherwise by the court
16 and the county in writing, the government entities that are
17 responsible for the collection of delinquent court-ordered debt
18 shall be responsible for implementation of the amnesty program
19 as to that debt, maintaining the same division of responsibility in
20 place with respect to the collection of court-ordered debt under
21 subdivision (b) of Section 1463.010 of the Penal Code.

22 (c) As used in this section, the term “fine” or “bail” refers to
23 the total amounts due in connection with a specific violation, which
24 include, but are not limited to, all of the following:

25 (1) Base fine or bail, as established by court order, by statute,
26 or by the court’s bail schedule.

27 (2) Penalty assessments imposed pursuant to Section 1464 of
28 the Penal Code, and Sections 70372, 76000, 76000.5, 76104.6,
29 and 76104.7 of, and paragraph (1) of subdivision (c) of Section
30 76000.10 of, the Government Code, and Section 42006 of this
31 code.

32 (3) State surcharges imposed pursuant to Section 1465.7 of the
33 Penal Code.

34 (4) Court operations assessments imposed pursuant to Section
35 1465.8 of the Penal Code.

36 (5) Criminal conviction assessments pursuant to Section 70373
37 of the Government Code.

38 (d) Notwithstanding subdivision (c), any civil assessment
39 imposed pursuant to Section 1214.1 of the Penal Code shall not

1 be collected, nor shall the payment of that assessment be a
2 requirement of participation in the amnesty program.

3 (e) Concurrent with the amnesty program established pursuant
4 to subdivision (b), between October 1, 2015, to March 31, 2017,
5 inclusive, the following shall apply:

6 (1) The court shall issue and file with the Department of Motor
7 Vehicles the appropriate certificate pursuant to subdivisions (a)
8 and (b) of Section 40509 for any participant of the one-time
9 amnesty program established pursuant to subdivision (b)
10 demonstrating that the participant has appeared in court, paid the
11 fine, or otherwise satisfied the court, if the driving privilege of that
12 participant was suspended pursuant to Section 13365 in connection
13 with a specific violation described in paragraph (1), (2), or (3) of
14 subdivision (g).

15 (2) The court shall issue and file with the department the
16 appropriate certificate pursuant to subdivisions (a) and (b) of
17 Section 40509 for any person in good standing in a comprehensive
18 collection program pursuant to subdivision (c) of Section 1463.007
19 of the Penal Code demonstrating that the person has appeared in
20 court, paid the fine, or otherwise satisfied the court, if the driving
21 privilege was suspended pursuant to Section 13365 in connection
22 with a specific violation described in paragraph (1), (2), or (3) of
23 subdivision (g).

24 (3) Any person who is eligible for a driver's license pursuant
25 to Section 12801, 12801.5, or 12801.9 shall be eligible for the
26 amnesty program established pursuant to subdivision (b) for any
27 specific violation described in subdivision (g). The department
28 shall issue a driver's license to any person who is eligible pursuant
29 to Section 12801, 12801.5, or 12801.9 if the person is participating
30 in the amnesty program and is otherwise eligible for the driver's
31 license but for the fines or bail to be collected through the program.

32 (4) The Department of Motor Vehicles shall not deny reinstating
33 the driving privilege of any person who participates in the amnesty
34 program established pursuant to subdivision (b) for any fines or
35 bail in connection with the specific violation that is the basis for
36 participation in the amnesty program.

37 (f) In addition to, and at the same time as, the mandatory
38 one-time amnesty program is established pursuant to subdivision
39 (b), the court and the county may jointly agree to extend that
40 amnesty program to fines and bail imposed for a misdemeanor

1 violation of this code and a violation of Section 853.7 of the Penal
2 Code that was added to the misdemeanor case otherwise subject
3 to the amnesty. The amnesty program authorized pursuant to this
4 subdivision shall not apply to parking violations and violations of
5 Sections 23103, 23104, 23105, 23152, and 23153.

6 (g) A violation is only eligible for amnesty if paragraph (1), (2),
7 or (3) applies, and the requirements of paragraphs (4) to (7),
8 inclusive, are met:

9 (1) The violation is an infraction violation filed with the court.

10 (2) It is a violation of subdivision (a) or (b) of Section 40508,
11 or a violation of Section 853.7 of the Penal Code that was added
12 to the case subject to paragraph (1).

13 (3) The violation is a misdemeanor violation filed with the court
14 to which subdivision (f) applies.

15 (4) The initial due date for payment of the fine or bail was on
16 or before January 1, 2013.

17 (5) There are no outstanding misdemeanor or felony warrants
18 for the defendant within the county, except for misdemeanor
19 warrants for misdemeanor violations subject to this section.

20 (6) The person does not owe victim restitution on any case
21 within the county.

22 (7) The person ~~is not currently making~~ *has not made any*
23 *payments after*____, to a comprehensive collection program
24 pursuant to subdivision (c) of Section 1463.007 of the Penal Code.

25 (h) (1) Except as provided in paragraph (2), each amnesty
26 program shall accept, in full satisfaction of any eligible fine or
27 bail, 50 percent of the fine or bail amount, as defined in subdivision
28 (c).

29 (2) If the participant certifies under penalty of perjury that he
30 or she receives any of the public benefits listed in subdivision (a)
31 of Section 68632 of the Government Code or is within the
32 conditions described in subdivision (b) of Section 68632 of the
33 Government Code, the amnesty program shall accept, in full
34 satisfaction of any eligible fine or bail, 20 percent of the fine or
35 bail amount, as defined in subdivision (c).

36 (i) The Judicial Council, in consultation with the California
37 State Association of Counties, shall adopt guidelines for the
38 amnesty program no later than October 1, 2015, and each program
39 shall be conducted in accordance with the Judicial Council's

1 guidelines. As part of its guidelines, the Judicial Council shall
2 include all of the following:

3 (1) Each court or county responsible for implementation of the
4 amnesty program pursuant to subdivision (b) shall recover costs
5 pursuant to subdivision (a) of Section 1463.007 of the Penal Code
6 and may charge an amnesty program fee of fifty dollars (\$50) that
7 may be collected with the receipt of the first payment of a
8 participant.

9 (2) A payment plan option created pursuant to Judicial Council
10 guidelines in which a monthly payment is equal to the amount that
11 an eligible participant can afford to pay per month consistent with
12 Sections 68633 and 68634 of the Government Code. If a participant
13 chooses the payment plan option, the county or court shall collect
14 all relevant information to allow for collection by the Franchise
15 Tax Board pursuant to existing protocols prescribed by the
16 Franchise Tax Board to collect delinquent debts of any amount in
17 which a participant is delinquent or otherwise in default under his
18 or her amnesty payment plan.

19 (3) If a participant does not comply with the terms of his or her
20 payment plan under the amnesty program, including failing to
21 make one or more payments, the appropriate agency shall send a
22 notice to the participant that he or she has failed to make one or
23 more payments and that the participant has 30 days to either resume
24 making payments or to request that the agency change the payment
25 amount. If the participant fails to respond to the notice within 30
26 days, the appropriate agency may refer the participant to the
27 Franchise Tax Board for collection of any remaining balance owed,
28 including an amount equal to the reasonable administrative costs
29 incurred by the Franchise Tax Board to collect the delinquent
30 amount owed. The Franchise Tax Board shall collect any
31 delinquent amounts owed pursuant to existing protocols prescribed
32 by the Franchise Tax Board. The comprehensive collection
33 program may also utilize additional collection efforts pursuant to
34 Section 1463.007 of the Penal Code, except for subparagraph (C)
35 of paragraph (4) of subdivision (c) of that section.

36 (4) A plan for outreach that will, at a minimum, make available
37 via an Internet Web site relevant information regarding the amnesty
38 program, including how an individual may participate in the
39 amnesty program.

1 (5) The Judicial Council shall reimburse costs incurred by the
2 Department of Motor Vehicles up to an amount not to exceed two
3 hundred fifty thousand dollars (\$250,000), including all of the
4 following:

5 (A) Providing on a separate insert with each motor vehicle
6 registration renewal notice a summary of the amnesty program
7 established pursuant to this section that is compliant with Section
8 7292 of the Government Code.

9 (B) Posting on the department's Internet Web site information
10 regarding the amnesty program.

11 (C) Personnel costs associated with the amnesty program.

12 (j) No criminal action shall be brought against a person for a
13 delinquent fine or bail paid under the amnesty program.

14 (k) (1) The total amount of funds collected under the amnesty
15 program shall, as soon as practical after receipt thereof, be
16 deposited in the county treasury or the account established under
17 Section 77009 of the Government Code. After acceptance of the
18 amount specified in subdivision (h), notwithstanding Section
19 1203.1d of the Penal Code, the remaining revenues collected under
20 the amnesty program shall be distributed on a pro rata basis in the
21 same manner as a partial payment distributed pursuant to Section
22 1462.5 of the Penal Code.

23 (2) Notwithstanding Section 1464 of the Penal Code, the amount
24 of funds collected pursuant to this section that would be available
25 for distribution pursuant to subdivision (f) of Section 1464 of the
26 Penal Code shall instead be distributed as follows:

27 (A) The first two hundred fifty thousand dollars (\$250,000)
28 received shall be transferred to the Judicial Council.

29 (B) Following the transfer of the funds described in
30 subparagraph (A), once a month, both of the following transfers
31 shall occur:

32 (i) An amount equal to 82.20 percent of the amount of funds
33 collected pursuant to this section during the preceding month shall
34 be transferred into the Peace Officers' Training Fund.

35 (ii) An amount equal to 17.80 percent of the amount of funds
36 collected pursuant to this section during the preceding month shall
37 be transferred into the Corrections Training Fund.

38 (l) Each court or county implementing an amnesty program
39 shall file, not later than May 31, 2017, a written report with the
40 Judicial Council, on a form approved by the Judicial Council. The

1 report shall include information about the number of cases resolved,
2 the amount of money collected, and the operating costs of the
3 amnesty program. Notwithstanding Section 10231.5 of the
4 Government Code, on or before August 31, 2017, the Judicial
5 Council shall submit a report to the Legislature summarizing the
6 information provided by each court or county.

O